

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 6805

BILL NUMBER: SB 300

NOTE PREPARED: Dec 29, 2005

BILL AMENDED:

SUBJECT: Victim's Compensation Fund.

FIRST AUTHOR: Sen. Long

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill defines "bodily injury" and specifies that the term includes emotional trauma only if the trauma stems directly from the impairment of a physical condition, a visible injury, or physical pain.

The bill provides that compensation to a victim of a violent crime may not be paid to certain persons who were intoxicated at the time of the crime, and permits only one claimant per crime to receive benefits.

It authorizes the Division of Victim Services to award benefits for an injury resulting from criminal use of a motor vehicle only after a conviction is entered, and does not permit an award until records are available and the criminal investigation is concluded. It also provides that certain information relating to the victim of a crime is confidential.

The bill makes the reimbursement rate for medical services equal to the rate for services provided under Medicaid, and prohibits a health care provider from seeking multiple reimbursement. It permits reimbursement for burial expenses up to \$4,000 and for mental health care up to \$2,000. It also requires documentation of certain expenses before a benefit may be awarded.

The bill prohibits an attorney who represents a crime victim at a hearing held by the Division from charging a contingency fee or being paid by the Division. It permits an attorney who obtains a civil judgment on which the state has a lien for the provision of victim services to receive attorney's fees of not more than 15% of the amount received by the state. It also makes other changes and conforming amendments. The bill repeals an obsolete provision relating to attorney's fees.

Effective Date: July 1, 2006.

Explanation of State Expenditures: *Summary:* This bill would reduce overall workload for the Indiana Criminal Justice Institute (ICJI) through clarification of current practice in the statute and, as a result, reducing the number of appeals from denied applications made to the Institute.

The bill would reduce expenditures for the ICJI through: disallowing payment to more than one claimant per crime; requiring submission of documentation prior to an award of funds; disallowing reimbursement to a victim or claimant should either the victim or claimant's net worth be over \$200,000; requiring a judgement of conviction be entered by the court prior to an award being made if the crime involved a motor vehicle; disallowing a claimant from being reimbursed by the ICJI for vacation, sick, and personal leave; disallowing for reimbursement of expenses above the Medicaid reimbursement rate; and allowing the ICJI to deduct money from an award that has already been reimbursed by Medicare or Medicaid.

The bill would increase expenditures for the ICJI through increasing the total amount allowed awarded for "actual expenses" from \$1,000 to \$2,000 per approved application.

Background Information -

Statute Clarification: The ICJI reports that a number of the provisions of this bill would provide clarification in statute pertaining to current practice and as a result reduce the number of appeals for denied applications, resulting in a reduction of workload for the ICJI.

Awarding Benefits to One or More Claimants: The bill disallows a benefit to more than one claimant per crime. The ICJI reports that it previously awarded claims to all eligible claimants who submitted applications per crime. Under current law, a claimant may be awarded a maximum of \$15,000. This provision of the bill would reduce expenditures for the ICJI. Actual reductions in expenditures are dependent on the number of additional claimants awarded benefits per crime and the amount of benefits for which they would currently be eligible.

Funeral Expenses: The bill changes a "shall" provision to a "may" provision in regards to payment of reasonable expenses for funeral, burial, or cremation. The ICJI reports that it would continue to pay \$4,000 per funeral for documented expenses, which is its current policy.

Documentation: The bill requires that documentation be submitted prior to an award for funeral, burial, or cremation expenses. Should documentation not be available in cases that previously would have been awarded money, expenditures would be reduced.

Benefits for Claimants or Victims with a Net Worth over \$200,000: The bill amends current statute and disallows a claimant (current law states victim) from being awarded benefits if the victim or claimant (current law states victim) had a net worth of greater than \$200,000 at the time the crime was committed. For example, a parent with a net worth exceeding \$200,000 may no longer submit a claim if their child who is under the age of 18, the victim, has a net worth of \$0. The ICJI would experience a reduction in expenditures under the requirements of the bill. Actual reductions in expenditures are dependent on the number of claimants or victims submitting applications with a net worth over \$200,000 that would previously have been awarded reimbursement and the amount for which they would have been awarded.

Judgement of Conviction: Currently, the ICJI awards benefits when a crime involved a motor vehicle before a judgement of conviction has been entered by the court. Incidences occur where an award has been made, but the court does not enter a judgement of conviction. The ICJI is then in a position to seek reimbursement of the funds awarded from the victim or claimant. The ICJI reports that retrieval of the funds has been problematic. Should the funds not be retrieved, the ICJI could forward the case to the Attorney General's office; it currently does not do so. As proposed, the ICJI would reduce its expenditures by the amount of money for which reimbursement is made when a judgement of conviction is not later found.

Medicaid Rate: The bill would amend the definition of "out-of-pocket loss" to include a provision that disallows for reimbursement that exceeds reimbursement rates under the fee-for-services Medicaid program. The ICJI reports that it conducted an analysis of 537 reimbursement claims. Total amounts reimbursed for the claims equaled \$2.1 M. As proposed, the ICJI would have spent \$582,000 for reimbursement, a savings of \$1.5 M.

Increases in Money Awarded for Actual Expenses: The bill increases the award for "actual expenses" from \$1,000 to \$2,000. This provision would increase expenditures for the ICJI. Actual increases are dependent on the number of claims submitted with "actual expenses" topping \$1,000; awards could be increased by up to \$1,000 per approved application.

Deduction of Medicaid and Medicare Benefits: The bill allows the ICJI to deduct money from an award amount that has already been reimbursed by Medicaid or Medicare. The ICJI reports that instances occur where both Medicaid or Medicare and the ICJI are billed. As proposed, either the ICJI or Medicaid/Medicare would experience a reduction in expenditures. Actual reductions are dependent on the number of claims submitted to the ICJI and Medicaid or Medicare and the amount of each claim.

Reimbursement for Vacation, Sick, and Personal Leave: The bill disallows a claimant from being reimbursed for vacation, sick, and personal leave. The ICJI reports that under the current program structure, claimants and victims request reimbursement for days (vacation, sick, and personal) for which they are already being paid by their employer. As proposed, the ICJI would experience a reduction in expenditures. Actual reductions are dependent on the number of claimants and victims who apply for reimbursement for vacation, sick, and personal leave and the number of days for which they currently would be reimbursed but under the provisions of this bill would not.

Explanation of State Revenues:

Explanation of Local Expenditures:

Explanation of Local Revenues:

State Agencies Affected: Indiana Criminal Justice Institute; Office of Medicaid Policy and Planning.

Local Agencies Affected:

Information Sources: Sylvia Miller, Indiana Criminal Justice Institute.

Fiscal Analyst: Sarah Brooks, 317-232-9559.